



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Privacy Act of 1974; System of Records

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of amendment of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the United States Patent and Trademark Office (USPTO) is amending the system of records currently listed under “COMMERCE/PAT-TM-2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents.” This action is being taken to update the Privacy Act notice. We invite the public to comment on the amendments noted in this publication.

DATES: Written comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The amendments will become effective as proposed on [INSERT DATE 30 DAYS AFTER DATE OF

PUBLICATION IN THE FEDERAL REGISTER], unless the USPTO receives comments that would result in a contrary determination.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: OEDRecords@uspto.gov. Include “Privacy Act PAT-TM-2 comment” in the subject line of the message.
- Fax: (571) 273-0074, marked to the attention of the Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.
- Mail: Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

All comments received will be available for public inspection at the Federal rulemaking portal located at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313–1450, (571) 272–4097.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (USPTO) is giving notice of an amendment to a system of records that is subject to the Privacy Act of 1974. This system of records maintains information on attorneys and agents who are, or have been, registered or recognized to practice before the USPTO in patent matters; attorneys engaged in practice before the USPTO in trademark and other non-patent matters; and applicants and former applicants for such registration or recognition to practice. The Privacy Act notice is being updated with additional departmental information for the system manager. The descriptions of the categories of individuals covered by the system and the purpose of the system have been revised to clarify that the system includes records for registered, recognized, and authorized practitioners. The description of the routine uses of records maintained in the system has been updated to include use in law enforcement, audits and oversight activities, and distribution to contractors, all uses commonly published in other agency system of records notices. The description of retrievability has been revised to indicate that records may be retrieved by indicators other than name and registration number.

The Privacy Act system of records notice, “COMMERCE/PAT-TM-2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents,” was previously published at 70 FR 69522 (November 16, 2005). The amended system of records notice is being renamed “COMMERCE/PAT-TM-2 Complaints, Investigations and Disciplinary Proceedings Relating to Attorneys and Agents Registered or Recognized to Practice Before the Office” and is published in its entirety below.

COMMERCE/PAT-TM-2

System name:

Complaints, Investigations and Disciplinary Proceedings Relating to Attorneys and Agents Registered or Recognized to Practice Before the Office.

Security classification:

Unclassified.

System location:

Office of Enrollment and Discipline, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; Office of the Solicitor, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314.

Categories of individuals covered by the system:

Attorneys and agents registered, recognized, or authorized to practice before the United States Patent and Trademark Office (USPTO) in patent matters, attorneys engaged in practice before the USPTO in trademark and other non-patent matters, attorneys appearing before the USPTO, and excluded or suspended attorneys and agents.

Categories of records in the system:

Complaints and information obtained during investigations and quasi-judicial disciplinary proceedings.

Authority for maintenance of the system:

35 U.S.C. § 2.

Purpose(s):

To carry out the duties of the USPTO under 35 U.S.C. § 2(b)(2)(D), in particular, for the enrollment and recognition of individuals to practice as attorneys and agents before the USPTO in patent, trademark, and other non-patent matters and to aid the enforcement of statutes and regulations regarding the conduct of attorneys and agents admitted, recognized, or authorized to practice before the USPTO.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Routine uses will include dissemination of information concerning the complaint, investigation, or disciplinary proceeding may be made to the complainant and to persons who can reasonably be expected to provide information needed in connection with the complaint, investigation, or disciplinary proceeding. Notice of filing of a disciplinary complaint may be publicly disclosed. Upon a final order reprimanding, suspending, or excluding an attorney or agent, the records in this system may be publicly disclosed.

(2) Routine uses will include disclosure for law enforcement purposes to the appropriate agency or other authority, whether federal, state, local, foreign, international or tribal, charged with the responsibility of enforcing, investigating, or prosecuting a violation of any law, rule, regulation, or order in any case in which there is an indication of a violation or potential violation of law (civil, criminal, or regulatory in nature).

(3) Routine uses will include disclosure to an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(4) Routine uses will include disclosure to contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other work assignment for the United States Patent and Trademark Office, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to the United States Patent and Trademark Office employees.

(5) Routine uses will include the Prefatory Statement of General Routine Uses Nos. 1-5 and 8-13, as found at 46 FR 63501-63502 (December 31, 1981).

Disclosure to consumer reporting agencies:

Not applicable.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, microfilm, and machine-readable storage media.

Retrievability:

Filed by name, registration number, or other retrievable indicators. The files are searchable in a database available only to authorized staff members of the Office of Enrollment and Discipline.

Safeguards:

Records are located in secured rooms or secured premises with access limited to those whose official duties require access. Electronic files are stored in secured premises with access limited to those whose official duties require access. The electronic files are password protected and can only be accessed by authorized personnel.

Retention and disposal:

Records retention and disposal is in accordance with the series record schedules.

System manager(s) and address:

Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline, United States Patent and Trademark Office, Mail Stop OED, P.O. Box 1450, Alexandria, VA 22313-1450.

Notification procedure:

Information about the records contained in this system may be obtained by sending a request in writing, signed, to the system manager at the address above or to the address provided in 37 CFR 102 subpart B for making inquiries about records covered by the Privacy Act. Requesters should provide their name, address, and record sought in accordance with the procedures for making inquiries appearing in 37 CFR 102 subpart B.

Record access procedures:

Requests from individuals should be addressed as stated in the notification section above.

Contesting record procedures:

The general provisions for access, contesting contents, and appealing initial determinations by the individual concerned appear in 37 CFR 102 subpart B. Requests from individuals should be addressed as stated in the notification section above.

Record source categories:

Subject individuals, client(s) of same, registered or recognized attorneys and agents, witnesses in disciplinary proceedings, court opinions, and other individuals furnishing information.

Exemptions claimed for the system:

Pursuant to 5 U.S.C. § 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. § 552a(k)(2) are exempt from the notice, access, and contest requirements (under 5 U.S.C. § 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

Dated: March 14, 2013.

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.
BILLING CODE: 3510-16-P

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